

Message Text

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SUBJ: OWENS-ILLINOIS NATIONALIZATION

1. EL NACIONAL APRIL 8 CARRIES INTERVIEWS WITH THE ATTORNEY GENERAL (PROCURADOR GENERAL), EDUARDO RAMIREZ LOPEZ, AND WITH HIS IMMEDIATE PREDECESSOR, JOSE GUILLERMO ANDUEZA, CONCERNING THE LEGAL BASIS FOR THE NATIONALIZATION OF OWENS-ILLINOIS. FOLLOWING IN INFORMAL TRANSLATION IS THE INTERVIEW WITH ATTORNEY GENERAL, WHICH BEGAN WITH HIS INTRODUCTORY STATEMENT: QUOTE: AS THE COMMUNIQUE OF THE NATIONAL EXECUTIVE STATES, THE GOVERNMENT PROPOSES TO PURCHASE THE OWENS-ILLINOIS INTERESTS IN VENEZUELA. FUNDAMENTALLY IT IS A MATTER OF A NORMAL AND ORDINARY NEGOTIATION. IT IS EVIDENT THAT IF THERE IS NO AGREEMENT, THE REPUBLIC WILL HAVE NO OTHER RECOURSE THAN TO PROCEED TO EXPROPRIATION AFTER HAVING COMPLIED WITH THE LEGAL REQUIREMENTS.

Q. WHAT ARE THOSE REQUIREMENTS?

A. IN FIRST PLACE, A DECLARATION BY THE NATIONAL CONGRESS AS TO THE PUBLIC BENEFIT (UTILIDAD) OF THE ACQUISITION AND LATER INITIATING THE CARRYING TO ITS COMPLETION THE PROCESS OF EXPROPRIATION ITSELF.

Q. DO YOU BELIEVE A GLASS FACTORY CAN BE CONSIDERED OF PUBLIC

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UTILITY?

A. IN REALITY, PUBLIC BENEFIT WILL BE DETERMINED NOT PROPERLY BECAUSE THE FACTORIES OF GLASS ARTICLES WHICH OWENS-ILLINOIS PROCESSES

ARE CONSIDERED OF PUBLIC BENEFIT, BUT BECAUSE THE ATTITUDE OF THE COMPANY IN SCORNING OR FAILING TO COMPLY WITH ORDERS TRANSMITTED BY THE NATIONAL EXECUTIVE PLACES IT IN A POSITION OF DISREGARDING THE JURIDICAL ORDER WHICH MAKES NECESSARY CESSATION OF ITS ACTIVITIES IN THE NATIONAL TERRITORY. THE CONCEPT OF PUBLIC INTEREST IS VERY BROAD AND THEREFORE, WITHOUT CARRYING ITS INTERPRETATION TO THE LIMIT, IT SEEMS EVIDENT TO ME THAT A CASE LIKE THIS IS PERFECTLY ACCEPTABLE.

Q. ARE THERE NO OTHER MEASURES TO KEEP O-I FROM OPERATING IN THE COUNTRY BESIDES BUYING UP ITS SHARES?

A. APPARENTLY THERE IS NO LEGAL RECOURSE FOR ORDERING IT TO SUSPEND ITS ACTIVITIES. SECONDLY, STOPPING ITS OPERATIONS WOULD RESULT IN THE LACK OF SUPPLY OF GLASS TO THE NATIONAL INDUSTRY AND WOULD INJURE OTHER PERSONS WHO HAVE NOTHING TO DO WITH THE PROBLEM. IN ANY EVENT IT IS INDISPENSABLE THAT FACTORIES SUCH AS THIS CONTINUE OPERATING.

Q. COULD O-I BE NATIONALIZED BY SPECIAL LEGISLATION?

A. NATIONALIZATION WOULD ALSO BE FEASIBLE, AND THERE ALSO EXISTS THE POSSIBILITY THAT BY USING THE MECHANISM OF DECISION 24 OF THE AGREEMENT OF CARTAGENA, THIS ACTIVITY IS RESERVED TO NATIONAL CAPITAL.

Q. COULD O-I DECIDE TO SELL ITS SHARES NOT TO THE GOVERNMENT BUT TO VENEZUELAN CAPITALISTS?

A. THAT IS A DE FACTO SITUATION WHICH HAS NOT BEEN CONSIDERED, BUT UNDOUBTEDLY IF IT SHOULD ARISE WOULD REQUIRE THE PROBLEM TO BE EXAMINED FROM A DIFFERENT VIEWPOINT, ESPECIALLY IF THERE EXISTS SUFFICIENT GUARANTIES THAT THOSE WHO ACQUIRE THE STOCK ARE NOT INTERMEDIARIES (DUMMIES). AT THIS POINT IT IS WELL TO CONSIDER THAT IT HAS DEFINITELY SEEMED TO THE GOVERNMENT THAT IT IS NOT CONVENIENT TO THE NATIONAL INTEREST THAT OWENS-ILLINOIS CEASE ITS OPERATIONS IN VENEZUELA BECAUSE OF ITS ACTIVITIES IN DISREGARDING THE INSTRUCTIONS WHICH IT RECEIVED.

Q. DOES THIS MEAN THAT THE O-I EXECUTIVES IN VENEZUELA CANNOT CONTINUE WORKING FOR THIS COMPANY?

A. I WANT IT TO BE VERY CLEAR THAT THOSE WHO DISOBEYED THE ORDERS OF THE GOVERNMENT WERE NOT THOSE HERE, BUT AT THE HEAD OFFICE IN TOLEDO, OHIO.

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Q. THEN THE PROBLEM IS TO CUT THE UMBILICAL CORD WHICH TIES OWENS-ILLINOIS OF VENEZUELA TO OWENS-ILLINOIS OF THE UNITED STATES?

A. EXACTLY.

Q. IF O-I DECIDES TO SELL ITS SHARES TO THE NATIONAL GOVERNMENT, WOULD THIS NOT TIE IT TO THE HOME OFFICE IN THE U.S. IN ORDER TO OBTAIN THE NECESSARY TECHNOLOGY TO CONTINUE OPERATING THE GLASS FACTORIES?

A. IT IS DIFFICULT TO CLARIFY THAT SITUATION AT THIS MOMENT.

A. IN ANY EVENT, WHETHER BY NEGOTIATION OR EXPROPRIATION, WILL O-I BE PAID FOR ITS FIXED ASSETS?

A. IT WILL BE PAID THE JUST VALUE IN ACCORDANCE WITH ITS FIXED ASSETS. UNQUOTE.

2. JOSE GUILLERMO ANDUEZA, ATTORNEY GENERAL DURING THE CALDERA ADMINISTRATION, WHEN INTERVIEWED, SAID QUOTE I BELIEVE THE ONLY WAY (THE GOV CAN ACQUIRE O-I) IS BY A NATIONALIZATION LAW, SINCE I DO NOT SEE HOW A PRIVATE COMPANY CAN BE FORCED TO SELL ITS SHARES TO THE NATIONAL GOVERNMENT. IN THIS CONNECTION THERE IS NO LAW WHICH AUTHORIZES THAT NEGOTIATION IN AN OBLIGATORY FASHION. IN CASE IT WERE DONE UNDER PRESSURE IT WOULD BE AN ATTEMPT AGAINST PRIVATE PROPERTY AND THE FREEDOM ON INDUSTRY AND COMMERCE. TO PROCEED WITH THE NATIONALIZATION THERE WOULD HAVE TO BE A DECLARATION OF PUBLIC BENEFIT. I DO NOT IMAGINE HOW A GLASS FACTORY CAN BE DECLARED OF PUBLIC BENEFIT. BUT ON THE OTHER HAND THROUGH INDIRECT MEANS SUCH AS PRESSURES, SUSPENSION OF PATENTS ETC. THE COMPANY COULD BE OBLIGATED TO SELL ITS SHARES UNQUOTE.

3. NOTE: WE HAVE FOLLOWED THE FORMULATION ESTABLISHED BY THE OAS ENGLISH TRANSLATION OF THE VENEZUELAN CONSTITUTION IN RENDERING "UTILIDAD" AND "BENEFIT". THE WORD COULD BE TRANSLATED AS "UTILITY" OR "USEFULNESS". "UTILIDAD PUBLICA" IN THE CONTEXT OF THE CONSTITUTION SEEMS TO HAVE ROUGHLY THE SAME MEANING AS OUR OWN PHRASE "PUBLIC PURPOSE."
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